IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA SOUTHERN DIVISION

KIMBERLY ANDERSON,)	
Plaintiff,)	
v.) CASE	NO. 1:23-CV-164-KFF
KILOLO KIJAKAZI, Acting)	
Commissioner of Social Security,)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

The Commissioner has filed an Unopposed Motion for Entry of Judgment Under Sentence Four of 42 U.S.C. § 405(g). Doc. 8. Sentence four of 42 U.S.C. § 405(g) authorizes the district court to "enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g). A district court may remand a case to the Commissioner for a rehearing if the court finds "the decision is not supported by substantial evidence [or the Commissioner or ALJ] incorrectly applied the law relevant to the disability claim." *Jackson v. Chater*, 99 F.3d 1086, 1092 (11th Cir. 1996).

Upon consideration of the Commissioner's motion, the Court finds reversal and remand necessary. The Commissioner concedes that remand is necessary and requests that, on remand, the Appeals Council instruct the ALJ to (1) further consider Plaintiff's diabetes and fatty liver; (2) further consider Plaintiff's subjective complaints of pain; (3) further

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consider Plaintiff's residual functional capacity; (4) take any administrative action

necessary to complete the record; and (5) issue a near hearing decision. Doc. 9 at 1.

Accordingly, it is ORDERED that the Commissioner's motion is GRANTED and

that the decision of the Commissioner is REVERSED and REMANDED for further

proceedings under 42 U.S.C. § 405(g) consistent with the Commissioner's motion.

It is further ORDERED, in accordance with Bergen v. Comm'r of Soc. Sec., 454

F.3d 1273, 1278 n.2 (11th Cir. 2006), that Plaintiff has 90 days after receipt of notice of

an award of past due benefits to seek attorney's fees under 42 U.S.C. § 406(b). See also

Blitch v. Astrue, 261 F. App'x 241, 242 n.1 (11th Cir. 2008).

A separate judgment will issue.

DONE this 18th day of July, 2023.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE UNITED STATES MAGISTRATE JUDGE

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